IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2818 OF 2006

The State of Maharashtra ..... Petitioner.

V/s

Mr. Bhaskar Doraswamy Chetty ..... Respondent.

Mr. A.S. Gadkari, APP for the Petitioner - State.

Mr. Ganesh Gole for Respondent.

CORAM: V.M. KANADE, J.
DATE : 3rd September, 2007

P.C.:

1. Heard the learned APP appearing on behalf of the Sate and the learned Counsel appearing on behalf of the respondent.

2. Petitioner - State is challenging the order passed by the Sessions Court dated 18/09/2006 in Criminal Revision Application No. 89 of 2006 whereby Ad-hoc Additional Sessions Judge was pleased to allow the revision application and direct that the black jaggery seized in C.R. No.105 of 2006 by the Prohibition and Excise Department, Panvel (Flying Squad No.2) should be returned to the respondent herein on his executing a bond of Rs 1,30,000/- with usual terms and conditions and also with further condition that the respondent shall not sell the said black jaggery in the State of Maharashtra and shall not sell the same for manufacturing liquor.

3. It is the case of the Petitioner herein that the truck which was carrying black jaggery was seized in Maharashtra and that the respondent herein did not have necessary permit for transporting the said jaggery. He also did not have necessary documents to show that he had lawfully purchased the jaggery for selling the same in the State of Silvassa. The learned Magistrate rejected the application which was filed by the respondent for return of the said goods. However, the Sessions Court allowed the revision application.

4. By the time Writ Petition was filed in this Court challenging the impugned order passed by the Sessions Court, it is an admitted position that the said black jaggery was returned to the respondent after he had executed bond as directed by the Sessions Court. In this view of the matter, Petition, in my view, has become infructuous since the property has already been returned. No interim order was passed by this Court since the Petition was filed in this Court. The learned APP appearing on behalf of the Petitioner - State submits that observations made by the Sessions Court are contrary to the record and that they have prima faice material to indicate that the said jaggery was brought in Maharashtra for the purpose of sale without proper authorization. He submits that the Trial Court may be influenced by the observations which are made by the Sessions Court. Hence, it is clarified that the Trial Court shall not be influenced by any observations made by the Sessions Court while deciding the application for return of the property and that the Trial Court shall decide the case on merits and in accordance with law. With these directions, Writ Petition is disposed of.

(V.M. KANADE, J.)